IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

FRIDAY, THE 28TH SEPTEMBER 2007 / 6TH ASWINA 1929

WP(C).No. 28855 of 2007(I)

PETITIONER:

K.K.SUNIL KUMAR,
UDHYANA,CHANGANKULANGARA,
OCHIRA P.O., KOLLAM DISTRICT,KERALA.

BY ADV. SRI.V.N.ACHUTHA KURUP (SR.)
SRI.K.HARILAL

RESPONDENTS:
----

1. STATE OF KERALA,REPRESENTED BY THE
PRINCIPAL SECRETARY TO GOVERNMENT
PUBLIC WORKS (E) DEPARTMENT
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM.

2. CHIEF ENGINEER,
OFFICE OF THE CHIEF ENGINEER,
PWD BUILDINGS AND LOCAL WORKS
THIRUVANANTHAPURAM.

BY GOVERNMENT PLEADER SRI.I.V.PRAMOD

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 28/09/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ANTONY DOMINIC, J.
==========
W.P.(C) NO. 28855 OF 2007
==========

Dated this the 28th day of September, 2007

J U D G M E N T

Petitioner is a contractor. By Ext.P4, the petitioner claimed revision of rates by 75% and Ext.P5 is the report of the 2nd respondent forwarding the claim of the petitioner with a recommendation favourable to him. Eventually the matter was considered by the Arbitration Committee and ultimately the Government issued Ext.P6 order giving 35% enhancement.

2. Thereafter the petitioner again submitted Ext.P7 seeking review of the decision and staking his earlier claim of revision by 75%. That once again was recommended by the 2nd respondent. However, it was turned down by the 1st respondent by Ext.P9 informing the petitioner that the Arbitration Committee has already examined his case and allowed 35% rate enhancement. According to the 1st respondent, there was no ground to review the decision of the Arbitration Committee.

3. The learned senior counsel appearing for the writ

petitioner complains that while Ext.P7 was considered by the 1st respondent, the same was rejected without assigning any valid reason.

4. I have considered the submission. It is seen from Ext.P9 that, what is relied on, is the report of the Arbitration Committee and it is on that basis, the issue has been decided against the petitioner. Therefore, it may not be correct to say that there are no reasons fro the 2nd respondent to turn down the request of the petitioner. Irrespective of that, this basically is a contractual matter and the petitioner is claiming revision of rates. Justifiability or otherwise of the claim is a matter to be established and that can be done only in a Civil Suit and not in a writ petition. Therefore, I am not in a position to entertain the writ petition.

Writ petition lacks merit and is dismissed without prejudice to the contentions raised.

ANTONY DOMINIC, JUDGE.

Rp